

REMARKS

This Amendment and Response to the Final Office Action is being submitted in response to the Final Office Action mailed July 30, 2008. Claims 1-30 are pending in the Application, of which claims 1-10 have been previously cancelled (See "Third Substitute Preliminary Amendment" dated February 7, 2008).

The Examiner has objected to the specification for failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Examiner has stated there is no mention in the specification of a 50% level of the block copolymer.

Claims 11-30 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner has stated there is no mention in the specification of a polymer concentration of more than 30% by weight.

Claims 11-30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hansen (U.S. Pat. No. 4,405,680), Grube et al (U.S. Pat. No. 5,055,135), or Ohtsuka et al (U.S. Pat. No. 5,925,695) in view of Schoenke (U.S. Pat. No. 4,032,491), Buck et al (U.S. Pat. No. 4,530,652), Kalkanoglu (U.S. Pat. No. 5,437,923), Fensel et al (U.S. Pat. No. 6,524, 980), Driesken et al (U.S. Pat. No. 6,538,053) or Stephens et al (U.S. Pub. No. 2003/0149140).

In response to these rejections, Claims 11 and 24 have been amended to further clarify the subject matter which Applicant regards as the invention, without prejudice or disclaimer to continued examination on the merits. These amendments are fully supported in the Specification, Drawings, and Claims of the Application and no new matter has been added. Based upon the amendments and the arguments presented herein, reconsideration of the Application is respectfully requested.

OBJECTION TO SPECIFICATION

The Examiner has objected to the specification for failing to provide proper antecedent basis for the claimed subject matter. Specifically, the Examiner has stated there is no mention in the specification of a 50% level of the block copolymer. Applicant directs the Examiner to page 3 and the paragraph titled Summary of the invention, wherein the applicant discloses a polymer composition of more than 20 wt% that certainly includes 50 wt% of the block copolymer. However, for clarification, Applicant has amended the specification as set forth above incorporating the claim language in originally filed Claim 1 to include 50 wt% of the block copolymer.

REJECTION OF CLAIMS UNDER 35 U.S.C. §112

Claims 11-30 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The Examiner claims there is no mention in the specification of a polymer concentration of more than 30% by weight. Applicant directs the Examiner to page 3 and the paragraph titled Summary of the invention, wherein the applicant discloses a polymer composition of more than 20 wt% that certainly includes a polymer concentration of more than 30% by weight. However, for clarification, Applicant has amended the specification as set forth above, incorporating the claim language in originally filed Claim 1 to include a range from more than 20 wt% to 50 wt% to include a polymer concentration of more than 30%.

REJECTION OF CLAIMS 11-30 UNDER 35 U.S.C. §103(a) AS BEING UNPATENTABLE OVER HANSEN (U.S. PAT. NO. 4,405,680), GRUBE ET AL (U.S. PAT. NO. 5,055,135), OR OHTSUKA ET AL (U.S. PAT. NO. 5,925,695) IN VIEW OF SCHOENKE (U.S. PAT. NO. 4,032,491), BUCK ET AL (U.S. PAT. NO. 4,530,652), KALKANOGLU (U.S. PAT. NO. 5,437,923), FENSEL ET AL (U.S. PAT. NO. 6,524, 980), DRIESKEN ET AL (U.S. PAT. NO. 6,538,053) OR STEPHENS ET AL (U.S. PUB. NO. 2003/0149140)

Claims 11-30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hansen (U.S. Pat. No. 4,405,680), Grube et al (U.S. Pat. No. 5,055,135), or Ohtsuka et al (U.S. Pat. No. 5,925,695) in view of Schoenke (U.S. Pat. No. 4,032,491), Buck et al (U.S.

Pat. No. 4,530,652), Kalkanoglu (U.S. Pat. No. 5,437,923), Fensel et al (U.S. Pat. No. 6,524, 980), Driesken et al (U.S. Pat. No. 6,538,053) or Stephens et al (U.S. Pub. No. 2003/0149140). It is respectfully submitted, however, that the cited references fail to anticipate or render obvious the disclosed invention. Specifically, the cited references fail to disclose, suggest, or teach a thin block copolymer modified bituminous felt or pavement comprising at least one block copolymer, comprising at least two poly(vinyl aromatic) blocks and at least one poly(conjugated diene) block, in a weight proportion of from more than 30 to 50 wt% and containing a bound poly(vinyl aromatic) content in the block copolymer in the range of from 15 to 50 wt%.

Schoenke discloses a roofing composition and resulting product that comprises 5-40% of asphalt and 60-95% of a block copolymer.

Hansen discloses a roofing shingle composed of a block copolymer and asphalt composition, wherein the block copolymer is about 6 to about 30 wt% of the block copolymer.

Buck et al disclose an asphalt composition. The asphalt composition comprises an asphalt and about 10 to about 25 wt% of the block copolymer.

Grube et al disclose a flame retardant bitumen. The bitumen includes a styrene copolymer between about 2 and about 20 wt%.

Kalkanoglu discloses a halogen-free flame-retardant bitumen roofing composition. The styrene copolymers in the composition are in a concentration of about 2 to about 25 wt% based upon the total weight of the composition.

Ohtsuka et al disclose a curable composition, a cured article therefrom having improved properties, an asphalt emulsion, an asphalt mixture for paving, and a cured article prepared therefrom having excellent water permeability. The composition in Ohtsuka is limited to an aromatic vinyl compound.

Fensel et al disclose a roofing membrane using composite reinforcement constructions. The roofing membrane includes an SBS block copolymer in the range of about 5 to about 22 wt%.

Drieskens et al disclose a watertight roofing panel of a bituminous composition. The composition contains 5 to 25 wt% of rubbery polymers comprising at least (a) radial styrene-butadiene block copolymer, (b) linear and/or radial styrene-isoprene block copolymer, and (c) styrene-diene diblock copolymer, preferably of statistical interlinking.

Stephens et al disclose a polymer modified bitumen compositions. The polymer modifier is present in the bituminous composition in an amount in the range of from 0.5 to 25% by weight.

On the other hand, amended claims 11 and 24 of the disclosed invention claim at least one block copolymer, comprising at least two poly(vinyl aromatic) blocks and at least one poly(conjugated diene) block, in a weight proportion of **from more than 30 to 50 wt%**, relative to the weight of the block copolymer and bitumen. In short, the disclosed invention picks up where Hansen leaves off, meaning Hansen teaches a block copolymer to about 30 wt%, and the disclosed invention teaches from more than 30 wt%. Additionally, the amended claims 11 and 24 of the disclosed invention claim a bound poly(vinyl aromatic) content in the block copolymer in the range of from 15 to 50 wt%.

Schoenke, Hansen, Buck et al, Grube et al, Kalkanoglu, Fensel et al, Drieskens et al, Stephens et al, and Ohtsuka do not disclose, suggest, or teach a block copolymer comprising a bound poly(vinyl aromatic) content in the block copolymer in the range of from 15 to 50 wt%.

Accordingly, Claims 11 and 24 have been amended to further clarify the invention with these limitations.

These rejections are respectfully traversed, and reconsideration and withdrawal of the rejections are respectfully requested.

It is also respectfully submitted that the Examiner has not provided adequate information concerning his §103 rejection to allow Applicant to appropriately and adequately respond. As required by 35 U.S.C. §103, the examiner should set forth in the Office action:

- (A) the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate,
- (B) the difference or differences in the claim over the applied reference(s),
- (C) the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and
- (D) an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

As further stated in M.P.E.P 706.02(j), it is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply.

Applicant previously requested the Examiner to explain why one of ordinary skill in the art at the time of the invention would have been motivated to modify the cited references or combine the cited reference teachings. However, in the Final Office Action, the Examiner has not provided any such reasoning as previously requested.

In any event, there is no suggestion or motivation from the references cited, or the knowledge generally available to one of ordinary skill in the art, to modify the cited references or combine the cited reference teachings. Further, the cited references do not teach or suggest all the claim limitations as amended.

Accordingly, amended claims 11 and 24 have been amended to further clarify the invention with these limitations.

These rejections are respectfully traversed, and reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

Applicant would like to thank Examiner for the attention and consideration accorded the present Application. Should Examiner determine that any further action is necessary to place the Application in condition for allowance, Examiner is encouraged to contact undersigned Counsel at the telephone number, facsimile number, address, or email address provided below. It is not believed that any fees for additional claims, extensions of time or the like are required beyond those that may otherwise be indicated in the documents accompanying this paper. However, if such additional fees are required, Examiner is encouraged to notify undersigned Counsel at Examiner's earliest convenience.

Respectfully submitted,

Date: September 30, 2008

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